

## COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES  
WASHINGTON, DC 20515

May 31, 2018

The Honorable J. Russell George  
Inspector General for Tax Administration  
Treasury Inspector General for Tax Administration  
City Center Building  
1401 H Street, N.W., Suite 469  
Washington, D.C. 20005

Dear Inspector General:

I write today to ask you to review the process used by the U.S. Department of the Treasury and Internal Revenue Service (IRS) to prioritize and issue IRS Notice 2018-54, which notifies the public of their intent to issue proposed regulations addressing the federal tax treatment of certain payments made by taxpayers that receive a credit against their state and local taxes. More specifically, I would like for you to determine whether this process was free from political influence.

Since the passage of the Tax Cuts and Jobs Act of 2017, I have been concerned about its implementation. I am concerned about the order in which Treasury and the IRS prioritize guidance and their interpretations of the new rules regarding the state and local tax deduction. In March, my colleagues and I sent a letter to IRS Acting Commissioner Kautter asking for information about a real estate audit initiative mentioned in a press article entitled *Mnuchin Warns of Audits in Blue States as Tax Showdown Continues*.<sup>1</sup> I now have a heightened concern based on statements I read related to IRS Notice 2018-54.

In issuing the Notice, the IRS highlighted the new limitation on the deduction for state and local taxes. It then stated:

In response to this new limitation, some state legislatures have adopted or are considering legislative proposals

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<sup>1</sup> <https://www.bna.com/mnuchin-warns-audits-n73014474126/> (January 12, 2018).

allowing taxpayers to make payments to specified entities in exchange for a tax credit against state and local taxes owed. . . Taxpayers should also be aware the U.S. Department of the Treasury and the Internal Revenue Service are continuing to monitor other legislative proposals being considered to ensure that federal law controls the characterization of deductions for federal income tax filings.<sup>2</sup>

In a May 23, 2018, article in the New York Times entitled *I.R.S. Warns States Not to Circumvent State and Local Tax Cap*,<sup>3</sup> a senior Treasury official reportedly stated the Notice was intended to serve as a broad warning to states to avoid developing more “gimmicks.” I believe that “gimmicks” may be a poor word choice given internal IRS guidance on this matter.

I am particularly concerned that the IRS in its statement singles out legislative proposals that appear to be “in response to the new limitation” on the state and local tax deduction while remaining silent on existing, virtually identical state legislation used to fund private school tuition voucher programs. Press and other reports note that Connecticut, Illinois, New Jersey, and New York<sup>4</sup> are considering or have passed legislative proposals similar to those enacted in Alabama, Arizona, South Carolina, South Dakota, and 13 other states,<sup>5</sup> which use these programs to subsidize private K-12 education. Some articles have discussed the similarities between the two types of proposals.<sup>6</sup>

I also am mindful that states the Notice attempts to single out have the majority of their Congressional delegations from, and predominantly vote for, the Democratic party. Conversely, states with programs omitted from the discussion in the Notice have the majority of their Congressional delegations from, and predominantly vote for, the Republican party. I hope this is merely a coincidence and not the result of any political influence.

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<sup>2</sup> IR-2018-122, May 23, 2018.

<sup>3</sup> <https://www.nytimes.com/2018/05/23/us/politics/irs-state-and-local-tax-deductions.html> (May 23, 2018).

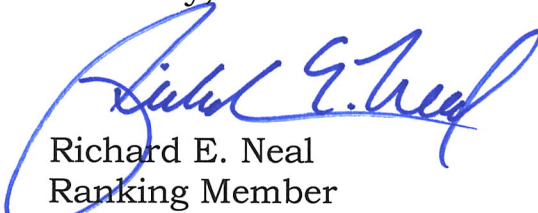
<sup>4</sup> <https://www.nytimes.com/2018/05/23/us/politics/irs-state-and-local-tax-deductions.html> (May 23, 2018); *Scholarship Funds May be Imperiled by Battle Over State Deduction*, <https://www.bna.com/scholarship-funds-may-n57982092910/> (May 24, 2018).

<sup>5</sup> *State Tax Subsidies for Private K-12 Education*, <https://itep.org/wp-content/uploads/k12taxsubsidies.pdf> (October 2016).

<sup>6</sup> <https://www.bna.com/scholarship-funds-may-n57982092910/> (May 24, 2018); *SALT/Charitable Workaround Credits Require a Broad Fix, Not a Narrow One*, <https://itep.org/salt-charitable-workaround-credits-require-a-broad-fix-not-a-narrow-one/> (May 23, 2018).

I thank you, in advance, for your prompt attention to this very serious matter. It is important that Treasury and the IRS administer the federal tax laws in a manner that is fair to all taxpayers regardless of the state in which they reside and free of partisan political influence. I would greatly appreciate if you update my staff as information becomes available.

Sincerely,



Richard E. Neal  
Ranking Member